

**State of California
Office of Administrative Law**

In re:
California Gambling Control Commission

NOTICE OF APPROVAL OF REGULATORY
ACTION

Regulatory Action:

Government Code Section 11349.3

Title 4, California Code of Regulations

OAL File No. 2010-1021-01 S

Adopt sections: 12347, 12348

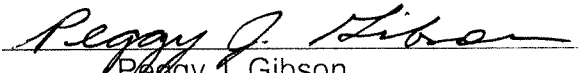
Amend sections: 12002, 12345

Repeal sections:

This rulemaking amends two sections and adopts two sections in Title 4 of the California Code of Regulations. The California Gambling Control Commission (Commission) is providing guidelines and procedures for the surrender or abandonment of state gambling licenses and the reactivation of specified expired state gambling licenses. The Commission is establishing consequences for late submittal of an application for renewal of a state gambling license and also providing a definition of surrender and abandonment of a state gambling license. The Commission is also providing a mechanism to reinstate state gambling licenses that were previously surrendered or had expired without being renewed, subject to specified conditions.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/6/2011.

Date: 12/7/2010


Peggy J. Gibson
Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Terri A. Ciau

Copy: James Allen

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2010-0525-08	REGULATORY ACTION NUMBER 2010-1021-61 S	EMERGENCY NUMBER
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NOTICE		REGULATIONS	

ENDORSED FILED
IN THE OFFICE OF

2010 DEC -7 PM 2:09


 DEBRA BOWEN
 SECRETARY OF STATE

 AGENCY WITH RULEMAKING AUTHORITY
 California Gambling Control Commission

 AGENCY FILE NUMBER (if any)
 CGCC-GCA-2010-01-R

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2010, 232	PUBLICATION DATE 6-4-10

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Reactivation of Expired Gambling Licenses		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT §12347, 12348	
		AMEND §12002, 12345	
TITLE(S) 4		REPEAL §	
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) 8/26/10 - 9/10/10			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON James Allen		TELEPHONE NUMBER (916) 263-4024	FAX NUMBER (Optional) (916) 262-0499
		E-MAIL ADDRESS (Optional) Jallen@cgcc.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

JOE DHILLON, Chief Counsel and Acting Executive Director

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ENDORSED APPROVED

DEC 07 2010

Office of Administrative Law

1 CALIFORNIA GAMBLING CONTROL COMMISSION
2 REACTIVATION OF EXPIRED GAMBLING LICENSES; SURRENDER; ABANDONMENT
3 CGCC-GCA-2010-01-R
4 ORDER OF ADOPTION
5

6 The California Gambling Control Commission hereby adopts the following changes in its
7 regulations contained in Division 18 of Title 4 of the California Code of Regulations:
8

9 CHAPTER 1. GENERAL PROVISIONS.
10

11 Section 12002. General Definitions.

12 Unless otherwise specified, the definitions in Business and Professions Code section 19805,
13 supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the Penal Code
14 (commencing with section 330), shall govern the construction of this division. As used in this
15 division:

16 (a) "BCII" means the Bureau of Criminal Identification and Information in the California
17 Department of Justice.

18 (b) "Bureau" means the Bureau of Gambling Control in the California Department of Justice.
19 For the filing of any information, reports or forms, Bureau refers to the Sacramento office of the
20 Bureau of Gambling Control.

21 (c) "California Games" means controlled games that feature a rotating player-dealer position,
22 as described in Penal Code section 330.11.

23 (d) "Commission" means the California Gambling Control Commission.

24 (e) "Conviction" means a plea or verdict of guilty or a plea of *nolo contendere*, irrespective of
25 a subsequent order of expungement under the provisions of Penal Code section 1203.4, 1203.4a,
26 or 1203.45, or a certificate of rehabilitation under the provisions of Penal Code section 4852.13.
27 Any plea entered pursuant to Penal Code section 1000.1 does not constitute a conviction for
28 purposes of Business and Professions Code section 19859, subdivisions (c) or (d) unless a
29 judgment of guilty is entered pursuant to Penal Code section 1000.3.

30 (f) "Deadly weapon" means any weapon, the possession or concealed carrying of which is
31 prohibited by Penal Code section 12020.

(g) "Executive Director" means the executive officer of the Commission, as provided in Business and Professions Code section 19816 or his or her designee. If the Executive Director position is vacant, the "Executive Director" means the officer or employee who shall be so designated by the Commission.

(h) "Gambling Control Act" or "Act" means Chapter 5 (commencing with section 19800) of Division 8 of the Business and Professions Code.

(i) "Registrant" means a person having a valid registration issued by the Commission.

(j) "Surrender" means to voluntarily give up all legal rights and interests in a license, permit, registration, or approval.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3), and 19854, Business and Professions Code. Reference: Sections 7.5, 19800, 19805, 19811, 19816, and 19951, Business and Professions Code.

CHAPTER 6. GAMBLING LICENSES AND APPROVALS FOR GAMBLING ESTABLISHMENTS AND OWNERS; PORTABLE PERSONAL KEY EMPLOYEE LICENSES.

ARTICLE 2. GAMBLING LICENSES.

Section 12345. License Renewals; Processing Times.

(a) Each application for renewal of a gambling license shall be accompanied by all of the following:

(1) A completed "Application for State Gambling License, CGCC-030," as referred to in paragraph (1) of subsection (a) of Section 12342.

(2) A nonrefundable application fee in the amount specified in subsection (a) of Section 12008 for a gambling license.

(b) Each person whose name is required to be endorsed upon the license shall submit a separate application for renewal of that person's license, together with the application fee specified in subsection (a) of Section 12008.

(c) All applications for renewal of gambling licenses for a particular gambling enterprise shall be submitted together as a single package to the California Gambling Control Commission.

(d) If, after a review of an application for renewal of a gambling license, the Bureau determines that further investigation is needed, the applicant shall submit an additional sum of money that, in the judgment of the Chief of the Bureau, will be adequate to pay the anticipated

1 investigation and processing costs, in accordance with Business and Professions Code section
2 19867.

3 (e) Except as provided in subsection (f), renewal gambling license applications submitted
4 pursuant to subsection (a) of this section shall be processed within the following timeframes:

5 (1) An application for renewal of a gambling license shall be filed by the owner licensee with
6 the Commission no later than 120 days prior to the expiration of the current license.

7 (2) The maximum time within which the Commission shall notify the applicant in writing
8 that an application or a resubmitted application is complete and accepted for initial processing by
9 the Commission, or that an application or a resubmitted application is deficient and identifying
10 what specific additional information is required, is 10 days after receipt of the application. For
11 the purposes of this section, "application" means the Application for State Gambling License,
12 CGCC-030 referred to in paragraph (1) of subsection (a) of Section 12342. An application is not
13 complete unless accompanied by the fee specified in subsection (a) of Section 12008 for a
14 gambling license.

15 (3) An application for a gambling license shall be forwarded by the Commission to the
16 Bureau for processing within five days of the date that the Commission determines that the
17 application is complete.

18 (4) The Bureau shall submit its written report concerning the renewal application, which may
19 include a recommendation pursuant to Business and Professions Code section 19826, subdivision
20 (a), to the Commission no later than 45 days prior to the expiration of the current license, unless
21 that application is filed with the Commission less than the 120 days prior to the expiration of the
22 current license.

23 (f) The processing times specified in paragraphs (2) through and including (4) of subsection
24 (e) may be exceeded in any of the following instances:

25 (1) The applicant has agreed to extension of the time.

26 (2) The number of licenses to be processed exceeds by 15 percent the number processed in
27 the same calendar quarter the preceding year.

28 (3) The Commission must rely on another public or private entity for all or part of the
29 processing and the delay is caused by that other entity.

30 (g) An application for license renewal that was not submitted at least 120 days in advance of
31 the expiration of the existing license shall be subject to the same timeframes as specified in

1 paragraphs (2) through (4) of subsection (e). However, if the Bureau and the Commission
2 cannot complete their review and approval of the application prior to the expiration of the
3 existing license due to the late submittal of the renewal application, the gambling enterprise shall
4 cease all gambling operations on the expiration date of the license. Gambling operations shall
5 not resume until the renewal application is approved by the Commission.

6 (h) If a licensee has not submitted a complete renewal application, including all required fees
7 and deposits, within 10 days after the expiration date of the current license, the license shall be
8 deemed abandoned. A abandoned license shall be subject to the provisions of subsection (b) of
9 Section 12347.

10 Note: Authority cited: Sections 19811, 19824, 19840, 19841, and 19951, Business and Professions Code.
11 Reference: Sections 19826, 19851, 19868, 19876, and 19951, Business and Professions Code.

12 13 **Section 12347. State Gambling License; Surrender; Abandonment.**

14 (a) An owner-licensee may propose to surrender a state gambling license at any time prior to
15 expiration. In order to propose the surrender of a license, the owner-licensee must submit a
16 written request to the Commission. A proposed surrender shall be agendized for consideration at
17 the next available Commission meeting. Each proposed surrender shall be considered on its
18 merits by the Commission. A proposed surrender is not effective unless and until the surrender
19 is accepted by the Commission. A proposed surrender may be rejected if the Commission
20 determines that acceptance would not be in the public interest, for example, if the owner licensee
21 is currently under investigation or if disciplinary action has been initiated.

22 (b) A state gambling license that has been surrendered or abandoned after the effective date
23 of this section is subject to the following:

24 (1) The license cannot be reactivated, reinstated, reissued, or renewed.

25 (2) The gambling enterprise associated with that license is no longer eligible to conduct any
26 gambling operation under that license.

27 (3) Business and Professions Code section 19963 precludes that cardroom from being
28 reopened in that jurisdiction or in any other jurisdiction.

29 Note: Authority cited: Sections 19811, 19824, 19840, 19841, Business and Professions Code. Reference: Sections
30 19823, 19851, 19876, 19877, 19963, Business and Professions Code.

1 **Section 12348. State Gambling Licenses: Prior Surrender or Abandonment.**

2 (a) A state gambling license that was valid as of December 31, 1999, or that was issued
3 pursuant to an application on file with the department prior to September 1, 2000, and that was
4 surrendered or expired without being renewed prior to the effective date of this section, shall be
5 eligible for reinstatement in accordance with the following guidelines:

6 (1) The applicant seeking to reinstate the license must be the last holder of the license that he
7 or she is seeking to reinstate.

8 (2) The applicant shall notify the Commission, in writing, within 30 days of the effective date
9 of this section of the intent to apply for reinstatement of the license.

10 (3) The applicant shall submit all applicable forms for an initial application required pursuant
11 to Section 12342, all fees and deposits required for an initial application required by Section
12 12341 and Title 11, California Code of Regulations, Section 2037, and all documentation
13 required by subsection (b) within 12 months of the effective date of this section.

14 (b) The following documentation shall be required of any applicant applying to reinstate a
15 state gambling license under this section:

16 (1) A copy of the last license issued by the state, or other documentation satisfactory to the
17 Commission, authorizing the applicant to operate the gambling establishment, which may
18 include either a provisional license or a state gambling license. For a corporation or partnership,
19 the applicant must also demonstrate that it is the same entity as was previously licensed to
20 operate the gambling establishment.

21 (2) A written document addressing the circumstances under which the previous license was
22 surrendered, abandoned, or allowed to expire without being renewed, as well as the applicant's
23 prior efforts, if any, to have the license renewed.

24 (3) A copy of the current applicable local gambling ordinance.

25 (4) An opinion from the chief legal officer of the local jurisdiction, dated no earlier than the
26 effective date of this section, certifying that the reopening of the gambling establishment is
27 authorized by and consistent with the local gambling ordinance.

28 (5) A copy of a formal resolution or other evidence satisfactory to the Commission, adopted
29 by the applicable city council, board of supervisors, or other local governing authority, dated no
30 earlier than the effective date of this section, which clearly states a willingness to issue a local
31 license to the applicant, contingent upon issuance of a state license.

1 (6) A statement signed by the chief law enforcement officer of the local jurisdiction, dated no
2 earlier than the effective date of this section, confirming that he or she supports the reopening of
3 the gambling establishment.

4 (7) An economic feasibility study that demonstrates to the satisfaction of the Commission
5 that the proposed gambling establishment will be economically viable, and that the owners have
6 sufficient resources to make the gambling establishment successful and to fully comply with all
7 requirements of the local ordinance, the Act, applicable state regulations, and all local, state, and
8 federal tax laws.

9 (c) In making the determination to grant or deny a request to reactivate a license pursuant to
10 this section, the Commission shall consider, but is not limited to considering, the following:

11 (1) Generally, whether issuance of the license is inimical to public health, safety, or welfare,
12 and whether issuance of the license will undermine public trust that the gambling operations with
13 respect to which the license would be issued are free from criminal and dishonest elements and
14 would be conducted honestly.

15 (2) The circumstances under which the previous license was surrendered, abandoned, or
16 allowed to expire without being renewed. Among other things, the Commission may consider,
17 in its discretion, any or all of the following:

18 (A) The presence or absence of any extenuating circumstances.

19 (B) Information which indicates an attempt to avoid adverse action arising from potential
20 misconduct as a licensee.

21 (C) A voluntary decision to relinquish the prior license.

22 (D) The applicant's prior efforts, if any, to have the license reissued or reactivated.

23 (3) In the case of a corporation or partnership, changes in the legal status or composition of
24 the licensed entity.

25 (4) The potential impact a reopened gambling establishment may have on the incidence of
26 problem gambling.

27 (5) The potential impact on the local economy, including revenues to the local jurisdiction
28 and the number of jobs that may be created.

29 (6) The economic impact on cardrooms located within a 20 statute mile radius.

30 (d) The gambling establishment to be reopened must be located in the same local jurisdiction
31 in which it was previously licensed.

1 (e) No temporary licenses shall be issued to any applicant under this section.

2 (f) A gambling license meeting the qualifications of subsection (a) shall be considered
3 abandoned if the time limits imposed by paragraphs (2) and (3) of subsection (a) are not met. An
4 abandoned license shall be subject to the provisions of subsection (b) of Section 12347.

5 Note: Authority cited: Sections 19800, 19811, 19824, 19840, 19841 and 19963, Business and Professions Code.

6 Reference: Sections 19811, 19823, 19824, 19851, 19856, 19860, 19862, 19864, 19865, 19873, 19876, 19960 and
7 19963, Business and Professions Code.